

**CITY COUNCIL
ATLANTA, GEORGIA**

**A RESOLUTION BY COMMITTEE ON PUBLIC SAFETY AND LEGAL
ADMINISTRATION**

01- R-0307

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LAWSUITS FILED IN FULTON COUNTY SUPERIOR COURT BY GOODEARTH RECYCLING, INC. v. AMK, Inc. and the CITY OF ATLANTA, CASE NUMBER E-61523; PLATEAU EXCAVATION, INC. v. AMK, Inc. and the CITY OF ATLANTA, CASE NUMBER E-71162 AND CRAWFORD, CRAWFORD AND BUICE v. AMK, Inc. and the CITY OF ATLANTA, CASE NUMBER E-71232, THE SUBCONTRACTORS HIRED BY AMK, INC. , FOR THE 23 CLAIRE DRIVE SAND PIT CLEAN-UP PROJECT IN THE AMOUNT OF \$216,000.00; AND FOR OTHER PURPOSES.

WHEREAS, on January 26, 1996, pursuant to a request from the Director of the Bureau of Motor Transport, the Bureau of Purchasing and Real Estate granted emergency authorization for the clean-up of a sand pit area at the Bureau of Motor Transport's 23 Claire Drive facility ("the Project") ; and

WHEREAS, AMK, Inc. was selected to complete the Project authorized by the emergency authorization; and

WHEREAS, AMK, Inc. hired several subcontractors to perform work on the Project; and

WHEREAS, AMK, Inc. has failed to fully compensate its subcontractors for work allegedly performed in connection with the clean up Project; and

WHEREAS lawsuits have been filed by AMK, Inc. and by its subcontractors GoodEarth Recycling, Inc. , Plateau Excavation, Inc. and Crawford, Crawford and Buice against the City and AMK, Inc. ; and

WHEREAS, the only issue remaining in the lawsuits between AMK, Inc. and the City is the value of the work allegedly performed by AMK, Inc. and its subcontractors; and

WHEREAS, the City desires to resolve the payment issues with the subcontractors without the necessity of continued protracted litigation; and

WHEREAS, the subcontractors have agreed to dismiss their claims against the City with prejudice; and

WHEREAS, the City disputes the claims asserted by the subcontractors and denies that any amounts are due and owed to the subcontractors, however, believes settlement of these issues is in the best interest of the City. The City's settlement of the claims asserted by the subcontractors shall in no way be construed to mean that the City has any liability for payment to any subcontractor or the prime contractor, AMK, Inc. for work performed on this project and the City expressly denies liability for payment.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED BY THE COUNCIL OF

THE CITY OF ATLANTA GEORGIA, AS FOLLOWS:

Section 1. That the City Attorney be and is hereby authorized to conclude complete settlement of all claims which have been asserted or could have been asserted and from which negotiations have been completed with the following subcontractors, for the following amounts in connection with the Bureau of Motor Transport's 23 Claire Drive sand pit clean up Project in connection with the cases of Plateau Excavation v. AMK, Inc. and the City of Atlanta; Case Number E-71162; GoodEarth Recycling, Inc. v. AMK, Inc. and the City of Atlanta Case Number E-61523; and Crawford, Crawford & Buice v. AMK, Inc. and the City of Atlanta Case Number E-71232. Settlements shall be distributed and the cases settled in the following amounts:

Plateau Excavation, Inc.	CAFN. E-71162	\$ 50,000.00
GoodEarth Recycling, Corporation	CAFN. E-61523	\$ 130,000.00
Crawford, Crawford & Buice	CAFN. E-71232	\$ 36,000.00

Section 2. That the Chief Financial Officer is authorized and directed to pay the aforementioned subcontractors the respective sums and amounts as negotiated between the parties. Such amounts are to be paid from Fund, Account and Center number 1A01-529017-T3001.

Section 3. That the City Attorney is hereby directed to prepare the appropriate dismissals, releases and other settlement documents as are necessary to protect the City's interest.

Section 4. That nothing in this resolution shall operate, nor shall be construed, to estop or prejudice the City from contesting the validity of or disputing liability for any subcontractor or general contractor claims asserted or which could have been asserted in connection with this project or claims asserted by any other subcontractor or general contractor on any other City project, whether such claims are mature or are hereafter accruing.

COMMITTEE AMENDMENT FORM

Committee: **Public Safety & Legal Administration Committee** Page Number(s): 2

Ordinance: Section(s): 2

Resolution: 01-R-0307

Paragraph:

Date: 3/13/01

AMENDMENT

1) page 2, delete the account number "1A01 529017 T3001" and substitute in lieu thereof the following:

1A01 529017 T31001